

AMENDED IN ASSEMBLY APRIL 17, 2002
AMENDED IN ASSEMBLY MARCH 21, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1902

Introduced by Assembly Member Reyes
(Principal coauthor: Senator Figueroa)

February 7, 2002

An act to amend Section 11580.011 of the Insurance Code, and to amend Section 27362 of the Vehicle Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1902, as amended, Reyes. Automobile insurance: damaged child safety restraint systems.

Existing law provides for regulation of insurers by the Insurance Commissioner and describes the coverage required to be provided by various categories of automobile insurance. Under these provisions, coverage is required to be provided for the replacement of a child passenger restraint system that was in use by a child during an accident for which the policy is applicable due to the liability of an insured.

This bill, upon the filing of a claim pursuant to a policy, would impose an obligation upon an insurer to ~~inquire of a claimant~~ *determine* whether a child passenger restraint system was in use by a child during an accident that is covered by the policy, and if so, to replace the child passenger restraint system in accordance with these provisions.

This bill would also require an insured to surrender a replaced child passenger restraint system to ~~his or her insurer or to~~ the nearest office of the Department of the California Highway Patrol.

Existing law prohibits a manufacturer, wholesaler, or retailer from selling or installing a child passenger restraint system in a motor vehicle if the system does not conform to all applicable federal motor vehicle safety standards on the date of sale or installation. A violation of this provision is a misdemeanor.

This bill would make these provisions applicable to any person. ~~The bill would also prohibit any person from loaning, renting, or otherwise providing a child passenger restraint system to any other person if the child passenger restraint system was previously in use by a child during an accident or if the child passenger restraint system does not otherwise conform to all applicable federal motor vehicle safety standards on the date that it is loaned, rented, or otherwise provided.~~ By changing the definition of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 11580.011 of the Insurance Code is
- 2 amended to read:
- 3 11580.011. (a) As used in this section, “child passenger
- 4 restraint system” means a system as described in Section 27360 of
- 5 the Vehicle Code.
- 6 (b) Every policy of automobile liability insurance, as described
- 7 in Section 16054 of the Vehicle Code, shall provide liability
- 8 coverage for replacement of a child passenger restraint system that
- 9 was in use by a child during an accident for which liability
- 10 coverage under the policy is applicable due to the liability of an
- 11 insured.
- 12 (c) Every policy of automobile liability insurance that provides
- 13 uninsured motorist property damage coverage, as described in
- 14 paragraph (2) of subdivision (a) of Section 11580.26, shall provide
- 15 coverage for replacement of a child passenger restraint system that



1 was in use by a child during an accident for which uninsured
2 motorist property damage coverage under the policy is applicable
3 due to the liability of an uninsured motorist.

4 (d) Every policy that provides automobile collision coverage
5 or automobile physical damage coverage, as described in Section
6 660, shall include a child passenger restraint system within the
7 definition of covered property, if the child passenger restraint
8 system was in use by a child during an accident.

9 (e) Upon the filing of a claim pursuant to a policy described in
10 subdivision (b), (c), or (d), an insurer shall have an obligation to
11 ~~inquire of a claimant~~ *determine* whether a child passenger restraint
12 system was in use by a child during an accident that is covered by
13 the policy, and an obligation to replace the child passenger restraint
14 system in accordance with this section if it was in use by a child
15 during the accident.

16 (f) An insured, upon acquiring a replacement child passenger
17 restraint system, shall surrender the child passenger restraint
18 system that was replaced ~~to his or her insurer or to the nearest~~
19 office of the Department of the California Highway Patrol.

20 SEC. 2. Section 27362 of the Vehicle Code is amended to
21 read:

22 27362. (a) ~~(1)~~ No manufacturer, wholesaler, retailer, or
23 person shall sell, offer for sale, or install in any motor vehicle any
24 child passenger restraint system not conforming to all applicable
25 federal motor vehicle safety standards on the date of sale or
26 installation. Responsibility for compliance with this section shall
27 rest with the individual selling, offering for sale, or installing the
28 system.

29 ~~(2) No person may loan, rent, or otherwise provide a child~~
30 ~~passenger restraint system to any other person if the child~~
31 ~~passenger restraint system was previously in use by a child during~~
32 ~~an accident or if the child passenger restraint system does not~~
33 ~~otherwise conform to all applicable federal motor vehicle safety~~
34 ~~standards on the date that it is loaned, rented, or otherwise~~
35 ~~provided.~~

36 (b) Every person who violates this section is guilty of a
37 misdemeanor and shall be punished as follows:

38 (1) Upon a first conviction, by a fine not exceeding four
39 hundred dollars (\$400) or by imprisonment in the county jail for
40 a period of not more than 90 days, or both.

(2) Upon a second or subsequent conviction, by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment in the county jail for a period of not more than 180 days, or both.

(c) The fines collected for a violation of this section shall be allocated as follows:

(1) Sixty percent to county health departments where the violation occurred, to be used for a child passenger restraint low-cost purchase or loaner program which shall include, but not be limited to, education on the proper installation and use of a child passenger restraint system. The county health department shall designate a coordinator to facilitate the creation of a special account and to develop a relationship with the municipal court system to facilitate the transfer of funds to the program. The county may contract for the implementation of the program. Prior to obtaining possession of a child passenger restraint system pursuant to this section, a person shall receive information relating to the importance of utilizing that system.

As the proceeds from fines become available, county health departments shall prepare and maintain a listing of all child passenger restraint low-cost purchase or loaner programs in their counties, including a semiannual verification that all programs listed are in existence. Each county shall forward the listing to the Office of Traffic Safety in the Business, Transportation and Housing Agency and the courts, birthing centers, community child health and disability prevention programs, and county hospitals in that county, who shall make the listing available to the public. The Office of Traffic Safety shall maintain a listing of all of the programs in the state.

(2) Twenty-five percent to the county for the administration of the program.

(3) Fifteen percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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